IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO: 2524 of 1998

Between:

Jagani Kushalaiah S/o Ramulu
R/o Prakasham Bazar, Nalgonda

... PETITIONER

AND

1. The Labour Officer,
   Nalgonda, Nalgonda District.
2. Mohd. Mahammed Ali (died), R/o 3-6-13, Mina Bowli, (per LR s)
   Nalgonda District.
3. Smt. Ghousia Bee W/o late Mohd. Mahammed Ali
   R/o 3-6-13, Mina Bowli, Nalgonda District.
4. Sk. Waheb S/o late Mohd. Mahammed Ali
   R/o 3-6-13, Mina Bowli, Nalgonda District.
5. Safia Begum D/o late Mohd. Mahammed Ali
   R/o 3-6-13, Mina Bowli, Nalgonda District.
6. Sk. Majib S/o late Mohd. Mahammed Ali,
   R/o 3-6-13, Mina Bowli, Nalgonda District.
7. Roquiya Begum D/o late Mohd. Mahammed Ali
   R/o 3-6-13, Mina Bowli, Nalgonda District.
8. Roqsana Begum D/o late Mohd. Mahammed Ali
   R/o 3-6-13, Mina Bowli, Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the impugned proceedings made in M.W.Case No.1 of 1995 dated
25-11-1997 on the file of the 1st respondent herein and quash the same as illegal, arbitrary and without jurisdiction.

Counsel for the Petitioner: MR. G. VIDYASAGAR

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos.2 to 8: NONE APPEARED

The Court made the following:

ORDER: -

This writ petition is filed challenging the proceedings of the Authority under Section 20 of the Minimum Wages Act, 1948 (for short 'the Act') and Labour Officer, Nalgonda District in M.W.Case No.1 of 1995.

2. One Mohd. Ali (since died) admittedly was an employee of the petitioner-opposite party and when the minimum wages as applicable to the Helper was not paid, he filed M.W. Case No.1 of 1995 before the Authority under Section 20 of the Act. Though the petitioner herein filed a counter in an application seeking to condone the delay in filing the M.W.case, he did not file any counter in the main case in spite of several adjournments. The authority under the Act considered each and every aspect of the evidence placed before it and then came to the conclusion that the petitioner was entitled for minimum wages as per G.O.Ms.No.33 W.D.C.W.L (Lab-II) dated 06-03-1991, as is applicable to the Andhra Pradesh Shops and Establishments. The said claim petition was filed in the month of January,1995 seeking minimum wages for the period from 22-04-1991 to 07-06-1994 and therefore, the petitioner-opposite party is directed to deposit Rs.7,938/- towards difference of charges and four times of compensation amounting to Rs.31,752/- as penalty totaling to Rs.39,690/- and directed to deposit the same immediately.

3. Though the learned Counsel for the petitioner tried to attack the order saying that the Labour Officer has no jurisdiction to entertain such petition and only the Commissioner has jurisdiction to do so, I am afraid,

I cannot concede to such submission made by the learned Counsel. In the absence of any counter, inspite of the opportunity being given to the petitioner, the authority under the Act has rightly come to the conclusion that the petitioner is entitled for the minimum wages as prescribed in G.O.Ms.No.33 dated 06-03-1991 and also for the penalty as compensation. But I am of the view that though the original amount itself is Rs.7,938/-, simply because the counter is not filed, that does not mean that the

authority ought to have granted compensation amount of Rs.31,752/-, as four time penalty.

4. Further, it is to be noticed that during the pendency of the dispute before the authority, the first respondent herein died on 27-05-1997 and his legal representatives were brought on record. In the totality of the circumstances of the case, I am of the opinion that the order passed by the Authority is liable to be modified to the following effect.

5. In the result, the petitioner-opposite party is directed to deposit Rs.7,938/- towards differences of wages and one time compensation amounting to Rs.7,938/- as penalty, totaling to Rs.15,876/-(Rupees Fifteen thousand eight hundred and seventy six only) in the shape of Demand Draft in the name of the Authority under the Minimum Wages Act-cum-Labour Officer, Nalgonda, within a period of one month from the date of receipt of a copy of this order, and any amounts already paid in this regard shall be given credit to.

6. Thus, the writ petition is allowed in part. No costs.

_____

C. V. RAMULU, J

Dt.18-07-2005

GLV

ASSISTANT REGISTRAR

Copies to:

1. The Labour Officer,
   Nalgonda, Nalgonda District.
2. Two CCs. to the Government Pleader for Labour,
High Court Buildings, Hyderabad. (OUT)

3. Two C.D. copies.

*Form-NIC-OGS/WP{**KKG**}*